

REMARKS

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 40-52 and 76-82 are in this case. Claims 40-52 and 76-82 have been rejected under § 102(b) or § 103(a). Independent claim 40 and dependent claims 48 and 76 have now been amended. Dependent claims 45, 46 and 78 have been canceled. New independent claim 83 and dependent claims 84-91 have been added. All new claims read on the elected invention. As a result of these amendments, the claims before the Examiner will be claims 40-44, 47-52, 76, 77 and 83-91.

As detailed in the Interview Summary below, agreement was reached with the Examiner that independent claims 40 and 83 as now presented are patentable over the art of record, rendering claims 40-44, 47-52, 76, 77 and 83 allowable. New dependent claims 84-91 depend from allowable claim 83 and parallel language of dependent claims 41, 44, 45, 51, 52, 77, 80 and 81, respectively. The Application is therefore believed to be in condition for allowance.

Mailing Address – Please Correct

A new power of attorney to the undersigned was filed October 28, 2009, simultaneously revoking all prior powers of attorney in this case. It was requested to update the mailing address to the details associated with customer number 44696.

The Applicant notes that the Examiner's Interview Summary mailed November 5 was erroneously still sent to the previous mailing address.

The Examiner's cooperation is respectfully requested to ensure that all future communications are sent out according to the updated contact details.

Request for Continued Examination

A request for continued examination (RCE) is being filed contemporaneously with this response, together with the requisite fee. The RCE is believed to overcome the finality of the Examiner's last action. Accordingly, entry and consideration of the amendments above is respectfully solicited.

Interview Summary

Reference is made to an interview conducted on November 3, 2009, between Examiner Yogesh Patel for the P.T.O. and Dr. Mark Friedman and Mr. Daniel Michaels for the Applicant. The interview addressed the rejections under § 102(b) and § 103(a) over Abel and the various secondary references. Agreement was reached according to an informal proposed amendment provided by the Applicant with minor additional changes requested by the Examiner that the amended claims overcome all rejections of record.

The Applicant first presented to the Examiner photographs of a commercial product implementing the principles of the present invention, and demonstrating the resiliently compressible properties. The Applicant then pointed out additional proposed language ("open lattice structure" in claim 40 and the "majority open external profile" of claim 83) which states in structural terms the features which contribute to the resiliently compressible properties.

The Examiner agreed that the proposed amended claim language distinguishes over the prior art of record. He proposed addition of the word "hollow" in the second line of each independent claim to improve intelligibility of the claims.

The Applicant indicated that an amendment would be filed with the claims exactly as had been agreed, but with additional dependent claims following from

independent claim 83 and paralleling the language of the existing dependent claims.

Amendments as discussed are now being implemented as part of this response.

The Applicant greatly appreciates the Examiner's time and helpfulness in arranging and conducting this interview after Final Rejection.

§ 102(b) & § 103(a) Rejections

The Examiner has rejected claims 40-44, 46, 47, 51, 52, 81 and 82 under 35 U.S.C. § 102(b) as being anticipated by Abel (US 2003/0211442). The Examiner has rejected claims 45 and 48 under 35 U.S.C. § 103(a) as being unpatentable over Abel in view of Buchanan (US 5,752,825). The Examiner has also rejected claims 48-50 35 U.S.C. § 103(a) as being unpatentable over Abel in view of Malmin (US 4,019,254). Finally, the Examiner has also rejected claims 76-80 under 35 U.S.C. § 103(a) as being unpatentable over Abel in view of Ura (US 5,941,706). The Examiner's rejections are respectfully traversed.

While continuing to traverse the Examiner's rejections, the Applicant has, in order to expedite the prosecution, chosen to amend the claims as agreed with the Examiner in the telephone interview of November 3, as detailed in the above Interview Summary.

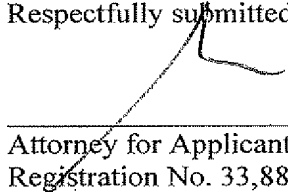
Specifically, independent claim 40 has been amended to include the "open lattice" language of dependent claim 45, now canceled. Claims 45, 46 and 78 were rendered redundant by this amendment and have been canceled.

New independent claim 83 is similar to claim 40 but includes an alternative definition referring to longitudinal elements and connecting elements together defining an external profile a majority of which is open. New dependent claims 84-91 generally parallel the language of dependent claims 41, 44, 45, 51, 52, 77, 80 and 81, respectively.

Support for these amendments can be found in the specification, and specifically: support for the open lattice structure may be found in Figures 7a-9c and the accompanying description, for example, the paragraph bridging pages 13-14 and page 20, lines 11-15. New dependent claims 84-91 generally parallel the language of dependent claims 41, 44, 45, 51, 52, 77, 80 and 81, and find support in the same manner as those corresponding claims as earlier presented.

In view of the above amendments, it is respectfully submitted that all claims now correspond to subject matter agreed with the Examiner to be patentable, leaving independent claims 40 and 83 and dependent claims 41-44, 47-52, 76, 77 and 84-91 in condition for allowance. Prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,



Attorney for Applicant
Registration No. 33,883

Date: November 8, 2009